

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

No. CIV 07-240 JB/RHS
No. CR 03-0569 JB

OMAR MOHAMMED,

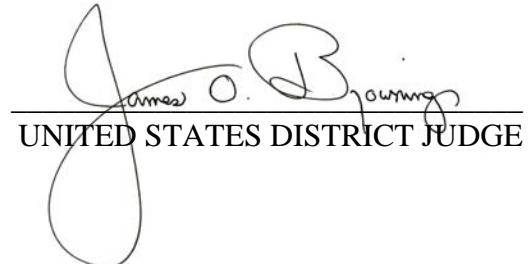
Defendant/Movant.

ORDER OF DISMISSAL

THIS MATTER comes before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition, filed January 22, 2010 (Doc. 18) ("PFRD"). No objections have been filed to the PFRD. Having considered the same, the Court will adopt the Magistrate Judge's PFRD. Defendant/Movant Omar Mohammed indicated in a letter to the Court that his counsel informed him of the Supreme Court of the United States' decision to deny his petition for a writ of certiorari on or about March 21, 2006. See Letter to Judge Scott, filed September 25, 2009 (Doc. 17). The Court additionally notes that an entry on criminal docket in Mohammed's case, entered March 9, 2006, states that the Court received a letter from the United States Court of Appeals for the Tenth Circuit indicating that the Supreme Court had denied Mohammed's petition for a writ of certiorari. Mohammed, therefore, had notice of the status of his petition in March 2006, eleven months before his § 2255 needed to be filed. In such a situation, equitable tolling is not appropriate. Accordingly, the Court will deny Mohammed's motion pursuant to 28 U.S.C. § 2255 and dismiss this civil proceeding.

IT IS ORDERED that the Magistrate Judge's Proposed Findings and Recommended Disposition is adopted by the Court, Defendant/Movant Omar Mohammed's Motion to Vacate, Set

Aside, or Correct Sentence, and Authority in Support Thereof Brought Pursuant to Title 28, United States Code, Section § 2255 (Doc. 1) is denied, and this civil proceeding is dismissed with prejudice, and that any pending motions are denied as moot.



UNITED STATES DISTRICT JUDGE

Parties and Counsel:

Gregory J. Fouratt
United States Attorney
Presiliano Torrez
Assistant United States Attorney
United States Attorneys Office
Albuquerque, New Mexico

Attorneys for the Plaintiff/Respondent

Omar Mohammed
FCI Victorville II
Adelanto, California

Defendant/Movant Pro Se